

Questions:

1. Based on the direct area of the Cap, are there any concerns of the tugboat activity creating unsuspecting problems such as subsiding?

>> During the design phase of the temporary armor cap, factors such as wave action caused by barge traffic and strong river flow velocities caused by severe weather events were taken into consideration.

2. Does the EPA have any future concerns for subsiding in the immediate area of the Cap?

>>The design and construction of the temporary cap, did not take into consideration long term factors such as subsidence that could cause damage to the cap. The temporary cap was an immediate short term measure designed and constructed not to fail (5 – 7 year minimum design life) until a more in depth analysis is conducted during the remedial design phase of the superfund site.

3. When will the responsible party respond regarding the Cap assessment?

>>A conference call was conducted on Wednesday January 16 with the EPA, US Army Corps of Engineers, and the responsible party to discuss the July 2012 western berm erosion of the armor cap. Another request was made by the EPA to the responsible party about the need for a report that discusses the rationale for the July 2012 erosion. The responsible is in agreement that a report is needed and will report back to the EPA by the close of business Friday January 18<sup>th</sup> as to when they will have a report ready.

4. Why was the responsible party controlling the design and construction of the Cap?

>>EPA's authority and role in the clean up of a non-CERCLA funded superfund or National Priorities Listed (NPL) sites is governed by the environmental laws and regulations such as the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), and the National Oil and Hazardous Substance Pollution Contingency Plan (NCP). A federal on scene coordinator (OSC) or remedial project manager (RPM) is the primary federal official responsible for compliance with CERCLA and the NCP. In general a responsible party is bound by the NCP regulation part 300.320(a)3 for response if the EPA has identified them as a responsible party. The responsible party is not without their legal rights protected under the NCP section 300.700 et. Seq.

5. Why does TDHS allow more dioxin (1000 per trillion) than other states for residential exposure?

6. Why is the objective or purpose of the Cap in place to get to a solution in 7 to 10 years when clean-up should be more immediate?

>>The temporary cap was an immediate short term measure designed and constructed not to fail (5 – 7 year minimum design life) until a more in depth analysis is conducted during the remedial design phase of the superfund site.

7. Can EPA do the clean-up directly? Under what conditions?

>>Yes the EPA has authority under CERCLA and the NCP 300.135 to conduct clean up actions directly. If is determined by the EPA that the responsible party is not being consistent with the NCP then the EPA has the authority to conduct the work themselves and send the responsible party a bill for the response costs up to treble damages. The role EPA plays whether it is a more active or passive is first determined by the nature of the discharge. First consideration is if the discharge is determined to be a substantial threat to public health or welfare per the Clean Water Act section 311, then by the capability and resources available to the states, local government, and/or potentially responsible party.

8. Why is not one of immediate solutions to.....build a bulkhead surrounding the cap, dig out the dioxins, transport to a designated site contained area and not waste time in preliminary studies, cap assessments, etc? The longer the wait for clean-up the greater the health risk?

>>During the initial design phase of the removal action, one of the options for building a physical barrier surrounding the waste pits that was considered was building a bulkhead and/or driving down of sheet piling that would completely encapsulate the waste pits from future contact with the San Jacinto River. Based a number of environmental factors, the best alternative chosen that would temporarily abate the release and threat of release of dioxin from the 1966 waste ponds into the San Jacinto River that present an imminent and substantial endangerment was alternative #3 "granular cover and revetment" please see EPA document "TCRA Decision Document" dated July 28, 2010.

9. Is Health and Human services determining the immediate risk of residents of the drinking water, fish consumption and direct exposure of dioxin for swimmers, fishermen, etc in the immediate Highlands community?